

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

YAKIMA VALLEY MEMORIAL
HOSPITAL, a Washington
Nonprofit Corporation,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF HEALTH; MARY C. SELECKY,
in her official capacity as
Secretary of the Washington
State Department of Health,

Defendants.

NO. CV-09-3032-EFS

STIPULATED PROTECTIVE ORDER

This matter comes before the Court on the parties' Stipulated Protective Order, ECF No. [108](#), which the Court construes as a motion.

Based on the stipulation of the parties, **IT IS HEREBY ORDERED:**

A. The parties and third parties may designate as "confidential information" any information provided by them in this litigation, any information contained in documents produced by them in this litigation or any information contained in oral testimony given in this litigation which discloses their trade secrets, their prices or costs, their customers' identities or other confidential information of competitive or proprietary importance concerning their business. Such

1 confidential information is to be used only in the manner hereinafter
2 described in part B.

3 1. The designation of "confidential information" shall
4 be made by placing or affixing a stamp or marking upon the face sheet of
5 a document containing such confidential information or any cover
6 document, label, or container for electronically-stored information
7 ("ESI") or physical objects (in such a manner as will not interfere with
8 the legibility or use thereof) the notice "CONFIDENTIAL," "FOR COUNSEL
9 ONLY" or the like, or stating on the record of any proceeding in which
10 oral testimony is provided that a specific document or testimony is
11 "Confidential" or "For Counsel Only" or the like. If only a portion of
12 a document is designated as "Confidential" or "For Counsel Only," the
13 aforesaid notice shall be placed on the face sheet of such document, and
14 the specific portions of the documents which are claimed to be
15 confidential shall be underlined, bracketed, highlighted or similarly
16 designated.

17 2. This protective order may be amended if a third party
18 is allowed to intervene. In addition, any party wishing to share
19 confidential or For Counsel Only information with a person with whom that
20 party has a joint defense agreement will identify to the other party the
21 information to be shared in order to give the other party the opportunity
22 to object. If an objection is lodged, the party wishing to disclose the
23 information may appeal to the court for permission to disclose the
24 information.

25 3. If any party objects to the classification of any
26 information as "Confidential" or "For Counsel Only" at any time during

1 the pendency of this litigation, such party shall give written notice of
2 its objection to the producing party. After such notice is given, the
3 parties shall confer and, if they are unable to resolve their
4 differences, the producing party may apply to this Court for a
5 determination whether the designated material is to be classified as
6 "Confidential" or "For Counsel Only." If the producing party does not
7 move the Court for such a determination within thirty (30) days after
8 receipt of written notice of an objection, the information shall be
9 deemed to be non-confidential.

10 4. Any information which has been produced and
11 designated "Confidential" or "For Counsel Only," which becomes the
12 subject of an objection and a timely motion to be designated as
13 "Confidential" or "For Counsel Only" shall be treated as designated,
14 i.e., "Confidential" or "For Counsel Only," subject to the terms of this
15 Order until the Court has ruled on the motion.

16 B. Counsel for the non-producing party or parties shall not
17 disclose, make available, or otherwise communicate such confidential
18 information to any other person except that:

19 1. Counsel may disclose information designated "For
20 Counsel Only" only to co-counsel and individuals regularly employed in
21 such counsel's office. The information disclosed to such co-counsel is
22 not to be disclosed by him to anyone else, and is not to be used for any
23 purpose other than motions, hearings, trial preparation, the trial, and
24 any appeal of these actions.

25 2. Counsel may disclose to management personnel of the
26 parties information designated "Confidential." The information disclosed

1 to such management personnel is not to be disclosed by them to anyone
2 else, and is not to be used for any purpose other than motions, hearings,
3 trial preparation, the trial, and any appeal of these actions.

4 3. Counsel may disclose information designated
5 "Confidential" to expert witnesses, consultants, and clerical and
6 accounting personnel who are directly employed or retained in connection
7 with this litigation by the parties to the extent that such disclosure
8 is necessary for the preparation of this case for hearing, trial, or
9 appeal. All such persons to whom such disclosure is made by counsel
10 (other than persons regularly employed in counsel's offices) shall agree
11 in writing to be bound by the terms of this Order as provided in
12 paragraph B.2. hereinabove, and shall execute an agreement in the form
13 of the Confidentiality Agreement annexed hereto as "Exhibit A." Each
14 person shall agree that such information is confidential, is not to be
15 disclosed by him or her to anyone else, and is not to be used for any
16 purpose other than hearing, trial, or appeal preparation, any hearing,
17 any trial, and any appeal of this action.

18 4. Information designated "Confidential" may be used in
19 connection with the deposition of any person provided that any witness
20 at a deposition who is not otherwise bound by this Protective Order shall
21 be informed of the contents of the Protective Order prior to the
22 submission of any confidential information to him or her, and executes
23 that Confidentiality Agreement attached as "Exhibit A."

24 C. Counsel shall preserve the confidentiality of all
25 information designated as "Confidential" or "For Counsel Only" pursuant
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1 to this Order and agree not to introduce such information into the public
2 record, subject to the following provisions:

3 1. To the extent that the transcript of any deposition
4 and the exhibits thereto incorporate any such confidential information,
5 the portion of such transcript and any exhibits thereto incorporating any
6 such confidential information either in haec verba or by way of summary
7 shall be marked with the notice "CONFIDENTIAL" or "FOR COUNSEL ONLY" and
8 shall be subject to the terms of this Order.

9 2. To the extent that only a portion of a document filed
10 by counsel quotes or summarizes confidential information, that document
11 shall be subject to the terms of this Order and counsel shall comply with
12 the provisions of paragraph A.1., supra.

13 3. Information designated "Confidential" or "For Counsel
14 Only" may be used at any hearing or trial under such conditions as the
15 Court may impose.

16 4. Counsel shall move, pursuant to CR 5(g), for entry
17 of any order to maintain under seal any pleadings, transcripts, exhibits
18 and other documents which are marked "CONFIDENTIAL" or "FOR COUNSEL ONLY"
19 and are filed in this action.

20 D. Documents and materials designated "Confidential" or "For
21 Counsel Only" and furnished hereunder (and all copies thereof) shall be
22 promptly returned to the producing party or destroyed at the producing
23 party's request at the conclusion of this litigation.

24 E. Any information produced hereunder as "Confidential" or
25 "For Counsel Only" but independently and lawfully obtained from other
26 sources, shall not be subject to this Protective Order.

DATED this 29th day of February 2012.

EDWARD F. SHEA
United States District Judge